



Paper No. 17

Roberta P. Saxon
Agent for Applicants
SKJERVEN MORRILL MacPHERSON LLP
25 Metro Drive, Suite 700
San Jose, CA 95110-1349

COPY MAILED

OCT 23 2003

OFFICE OF PETITIONS

ON PETITION

In re Application of
Rumer et al.
Application No. 09/675,627
Filed: September 29, 2000
Attorney Docket No. M-8570 US

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed October 13, 2003, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely reply within three months to the non-final Office action mailed February 13, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, this application became abandoned on May 14, 2003.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Petitioner submitted the authorization to charge the \$950.00 extension of time fee to petitioner's credit card along with the instant petition on October 14, 2003. However, it was subsequent to the maximum extendable period for reply. Accordingly, it was unnecessary and will not be charged.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed solely to the address currently of record until such time as appropriate instructions are received to the contrary.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable

inquiry into the facts and circumstances of such delay.¹ In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was intentional, petitioner must notify the Office.

The file is now being forwarded to Technology Center 2800 for further examination on the merits. Telephone inquiries should be directed to Paralegal Liana Chase at (703) 306-0482.

Karen Crasby for
Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: David E. Steuber
2350 Mission College Blvd.
Suite 360
Santa Clara, CA 95054

¹ See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997).